P.F. 8 of 94

G. R. S. IX-5]

Previous references. 1893 - 94

~~192~~

(L. R)

1C 1069

File No. ~~128 of 94~~

Serial Nos. 155

Later references.

LLH 159 CML 57.

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 1 — 5

Major ~~Part~~ B for Jan. 1894

SUBJECT.

Appeal of Thammiah & Co. Shanbhogs of Hosa Agrahara, Ye. Taluk

WD 2223—GPB—20,000—14-6-20

Communicated

Appeal No 45 of 1893-94.

Appellant:—

Thammaiya, Pensioned Naik Sheristadar of the Coll. Adalat Cour

Respondent:—

Gundappa
of Hosa Agrahar, Yadatore Taluk.

Appellant and Respondent are the sons of two brothers. The Barawad of the Shanbhogi of Hosa Agrahara Firka was in the name of Appellant's father Ramaiya, on whose death it was transferred to the name of Appellant in 1859, and he was allowed to nominate a Gumasta. He nominated the Respondent in January 1860, and the latter has been doing duties since then.

In 1883 the Appellant requested the Amildar to transfer the Perquisites to the name of his younger brother Subba Row and to appoint one Ramanna as Gumasta in place

Vide order No 313 of 6.12.1859 of the Commissioner of the Ashtagram Division.

Vide Copy of Thammaiya's petition of 12.1.1860.

of Gundajjya (Respt.). Appellant's another brother Ranjundaiya objected to both the changes, saying that Gundajjya should not be considered as a Gumasta but as a Hakdar like him (Ranjundaiya) and his brothers. Respondent also objected to the changes, stating that he was Hakdar to the office that the Baravand was nominally in the name of Appellant this latter because they belonged to the elder line of the family, but the office was never held by them and that if the Appellant did not want the Baravand to be in his name it might be transferred to his (Respt's) own name. The Amildar submitted the case for the Deputy Commissioner's order stating that the Gumasta Gundajjya was an experienced man and was carefully doing the work from the time of his appointment, that no complaint had been brought against him by the ryots, and that his services would be required for the Sattra Settlement which was at hand. The Deputy Commr ordered that the present state of things should continue. (Vide order No 132 of 9.8.1883.)

Vide petition of 28.2.83.

Vide Gundajjya's petition of 28.5.1883.

Vide Amildar's report No 145 of July 1883.

9.8.1883

In 1892, the Appellant again

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presented a petition to the Amildar praying for the removal of Gumdajja. The Amildar issued an endorsement quoting the Deputy-Commissioner's order of 1883 saying that the rules did not permit the removal of the Gumasta.

Against the above order the appellant appealed to the Deputy-Commr who dismissed the appeal (Vide order No 156 of 11.7.93)

The present appeal is against the above order. The Grounds of appeal are in English

S.V. 30/5.

× No 165 of 31.8.92.

× Irandaleen is put up.

Translation
4

4

GOVERNMENT OF MYSORE

In the Court of the Dy: Commrs: & Magte
Rev: Misc: Official No: 47.

Order to the Pr: 666/882 of the Amildar
ye entire file

"Heard the Pleader of the
petitioners & the counter-petitioner
who were present on the hearing
date 8-7-93 & also perused the
records connected with the case.
It appears that prior to the Sharbhogam
Office was removed
has been in the name of the petitioners &
their father only as they were the
eldest of the family but there is
nothing to show that they ever
enjoyed held the office at any time
during the past & that they are would
entitled to enjoy hold it in the future.
The counter-petitioner too belongs
to this same family i.e. petitioners
mulla family & has been doing
the duties of this Sharbhogam Office
as Gumasta, from the commence-
ment i.e., since 1859. He

He has not been found lazy or dishonest in his work + not even you or anybody else, have found fault with his work. But the petitioners prays that he may be removed from his office, on the ground that he does not ~~has~~ that he too is a candidate for the office + does not leave his post, + that he may eventually lose his claim to the said office. On this fact, when I enquired from him, he ~~deposed~~ told that he is doing the duties as usual as one of the candidates for the office, being of the same family as that of the petitioner, + not as an outsider who has no connection with the suit at all + that he does not say that the petitioner do not possess any such right. Moreover, on a dispute about the same thing in 1933, the petitioner's brother Ramjundeah has given a petition to the effect that the Barrackdivin

the

6

the name of his brothers sons,
for name sake only according to the
rule of inheritance of elders of the
family, but they have no ex-
perience & ability of the office,
that his uncle's son Gundappa,
the present Gumasta, is also a
hunkar like themselves & that
accordingly he may not be
removed from his office, as according
to the wished by the petitioners, as
he also is a hunkar like others.
On this the then Deputy Comm
issued an order No: 132 to the effect that
existing thing should not be
disturbed. If this order was not
satisfactory to them, they should
have then alone appealed & got it
righted. But having left quiet
till now they urge the Amildar
to ask him to be removed from his offi

No

No question is discernible on the
face of the counter-petitioners
he says that he is living the duties
of the husband & that he
does not say that the petitioners
have no such relations. Therefore
he cannot be removed from his
office, all at once, according to the
wish of the petitioners.—
My English order, pp 1 to 774 etc
are enclosed.

9/11-7-93.

Sd. A Rangaswamy Iyengar
Deputy Commissioner.
Mysore District.

1/4 9

Mr No 45 of 1893-4

Athalleus

Jamaica

Respt

Gunsaha

In 1859 apltt was appointed Harbourg of Hosa agrahar but as he was then in civil employment he ceased & Respt was appointed as his gumasta. apltt wishes to remove Respt from the office & to appoint another as his gumasta which the Dy Comr refused to comply with his request. Hence appeal is against the order.—

The grounds of appeal is that Respt says he is also a Huckdar & hence it is not safe to Respt keep as his gumasta.—

Respt does not deny Apltt's Huck. but admits

but ~~denies~~ at the hearing that he never pays any thing to Apltt in recognition of his superior rights & the office & pleaded that he was not bound to pay any thing

to Appt because he heavily was
a Hackadar.— Ques are 10
of wh seven that wh[ole] or the one hour
st is not observable to turn out gen[era]
at the pleasure of the employers, st
not also power to admit the claims of ge
who refuse to pay any thing to them
Employers on the plea that they are al
the Hackdamen.
The Postage in the
Case was stated to be about 5 or 6 —
You consider that 1/4 of the Postage ma
be placed to Appellant's & 3/4 the Respdts
not owing to [illegible] pay it, Appellan
shews he allowed to deduct Respts
apparent another. —

M. 7/12/94

Mrs reports by
Cons to whom
orders have been
issued

Draft 29/9/2 Drafted
SKR
17

8

Ramachi Ramappa

Ramappa (age 45 in 83)

Ramachandraiya (age 42 in 83)

Subbaiah
Mysuru
Bangalore
Advocate's Clerk
(age 42 in 83)

Ramanna

Ramappa

Ramappa (age 45 in 83)

Hadiru Kaka
Ramachandra
disappeared (1876 or
forever) the Chamaka
not known to Ramappa
dead.

(General Serial No. 32.)

1893.

No. 1079

Name of Petitioner. Hanumiah

Village.

Taluk. Bangalore

District.

Date of Arzi. 30-10-93

Date of Receipt. 31-10-93

Date of Disposal.

No. of Enclosures. three

ABSTRACT.

Appeals against the de
of the Deputy Commissio
of Tumcore in Reg. no. 47
1892-93 on the ground tha
the Deputy Commissioner e
in holding that the office of
Shanbhoge in dispute is jo
+ has been registered in the n
of the appellant as the senior m
of the family of both plaintiff +
defendant, that the Respond
ber

ing a duly appointed Examiner
y the appellant, acquires no right
to the office, & that the order of
the Dy. Commrs in 1883 was not final.

12

H/M.

Pet 703

14-11-

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Petition No. 1079
dated 30th Oct 93 received at the
Dewan's Office from Shanmaiya
represented by C. B. Gopala Ra
pleader, appealing against
the decision of the Deputy-Commi
of Mysore in Rev. Suit Case No 4
of 1892-93

is forwarded, together with its three
enclosures, to the Deputy-Commissioner
Mysore District for submiss
of proceedings with a report
in the form of the case and
on the points taken in the
petition.

2. The plaint and its enclosures should be retu

By Order,

Bangalore, 8 Nov 1893.

Chief Secretary.

10/11

M. G. C. P. Bangalore.—21-11-92—3,000.

From the Cause Pet 3 92-93

(General Serial No. 30.)

14

1894 12328

10 FEB. 94

From The Deputy Commissioner Mysore District

To The Chief Secretary to the Dewan of Mysore.

Dated 7th February 1894

Despatched 10th February 1894

Received

Enclosures No. Petition G.O. dated 7th Feby 1894 with 3 enclosures

General No. 884

No. Annexure file

Submitting report on the petition from Thammaiya, pensioned Naik Shirastedar of Gadi Adalath Court, residing at Maddagiri.

P.C. 1.2.94

10/2/94

Post the case for hearing Give notice to both parties

Vide draft 15/2/94

Adjourned to 26th April 94 to 10th June 94

Posted 29-3-94

No. 884

15

DEPUTY COMMISSIONER'S OFFICE,
MYSORE DISTRICT,

Dated Mysore 1st February 189-

Petition &c. with enclosures
& Enclosures.

From

A. Ranganadha Iyengar, Esqre, B.A., B.L.
Deputy Commissioner,
Mysore District.

To

The Chief Secretary to the Dewan of Mysore,

SIR,

In reply to your Official memorandum No. 703 dated 14th ultimo, forwarding for orders a petition of Thammiya, Basavanda Thandapa of Hosa Agrahara village, Periapatna Taluk, I have the honor to submit the proceedings called for, and to state that in 1883 it was ordered by the then Division Superintendent that the Basavanda of the Hosa Agrahara Thandapi should be registered in the name of Thammiya and that he should be directed to nominate a Gumasta to do the work.

Enclosures 3

2. Thammiya nominated his cousin Gundappa as gumasta and this nomination was sanctioned and he has been doing the work since 1883. In 1883 Thammiya petitioned the Taluk Cutcherry

that as he was growing very old, the Barawand might be transferred to his youngest brother Loola Row and one Ramanna appointed as pimpreta in place of Goondappa. During the enquiry before the Amildar, Ranjeppa, brother of Thamniya, objected to the application stating that he had equal claim to the appointment with Loola Row and that the present Pimpreta should not be removed.

3. The Amildar submitted the case for the order of the Deputy Commissioner stating that the Barawandar and one of his brothers were pensioners while another brother was in Government service, that the Barawandar had never performed the duties of the Office nor was he or his brother likely to take up the appointment at any future date, that the present pimpreta had been doing the work since 1859 without any complaint and was an experienced man and that his services would be very useful as the classification and settlement work was at hand. The then Deputy Commissioner directed by order No. 132 dated 9th August 1883 that the existing arrangement need not be disturbed at present.

4. The Deputy took no further action in the matter for some years. He then obtained on 3rd August 1892 endorsement No. 1145 from the Builder as per orders of the Deputy Commissioner that the existing arrangement could not be disturbed and that rules did not permit the removal of the man without sufficient grounds and appeal against the said endorsement on the following grounds:-

That he is the holder and surrender of the Lumberji in question and that Gundappa has been appointed by him as his nominee.

That Gundappa has been trying to have the boatward transferred to his name.

That the recommendation of the Builder regarding the retention of Gundappa based only on the ground of his experience in accounts be which is not a valid reason.

5. The parties were heard and after a perusal of the records, the so-called appeal was dismissed on the following grounds:-

I. The records show that the boatward alone of the Office had been registered in the name of petitioner's father and of petitioner

merely by reason of their having been the senior members of the family to which they and the pursuata belonged and not because they had ever performed the duties or were expected to do so.

II. The counter-petitioner is a member of the same family being a descendant of the petitioner's uncle and has officiated as Thanthirapathi since 1857 and has not been guilty of any faults or omissions. It is not even alleged that he was guilty of any such.

III. It is now argued that he should be removed because he has alleged that he was also interested in the kattu and refused to give up the appointment and that this amounts to a fraudulent denial of the petitioner's right. The counterpetitioner was examined and he has explained that he merely pleads that he was appointed as pursuata to the office because he belonged to the same family and could not be in the same position as a stranger officiating for a time, and that this does not amount to a denial of the petitioner's rights.

IV. Ramjundiya, brother of petitioner, has

has in the ongoing of 1953, preceded a petition admitting the counter-petitioners allegations and saying that himself, counter-petitioner and others were entitled to the office along with petitioner.

V. The Deputy Commissioner had, in that case, issued order No. 152 refusing to disturb the existing arrangements and if petitioner was dissatisfied with it, he should have got it cancelled on appeal. Instead of this he has remained quiet for many years and cannot now have the question reopened on the same allegations, and as the counter-petitioners cannot be considered to have been disloyal to the petitioner and as his allegations seem to be bona fide, he cannot be removed from office.

I have the honor to be,

Sir,

Your most obd. servant

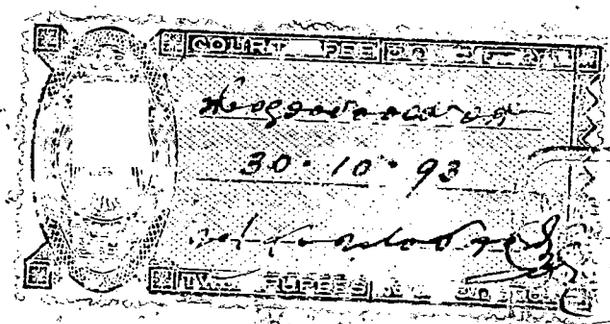
Deputy Commissioner

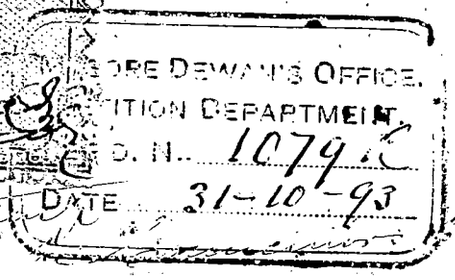
Chiyaram Dudrick.

Comptd.
Ally.

B/

(1)





Petitioner
Mrs
31/10/93

In the Court of

Revenue Appeal No. of 1893-94

A.S. No 45
93-94

Appellant

Respondent

Appellant

Tiruvarur

Kundapura

The appellant above-named respectfully begs to appeal against the decision of the Deputy Commr. of Kundapura in Misc. Case No. 2 of 1892-93 on the following grounds, viz:—

I

The Deputy Commissioner erred in holding that the office of Sirastadar aspired to and had been registered in the name of the appellant as the senior member of the family of the plaintiff and defendant

II

That the office in dispute was acquired by the father of the appellant after the division between the parties and consequently neither the respondent nor the family has any right to the office

III. That the respondent, being a duly appointed gomasta of the Petitioner, requires no right to the office.

IV. In the year of the 4th Counter in 1883 was not final.

V. The fact that the Respondent alleges a right to the office is inconsistent with the office of a gomasta and is an insufficient ground for his removal.

VI. The respondent, being only a gomasta of the Appellant and as such removable at his will, the respondent cannot as a matter of right, claim to remain in office.

VII. The respondent has been acting in the discharge of his duties prejudicially to the interests of the Appellant and he has reasons to pray for his removal therefrom.

Bangalore
the 6th Oct. 93

C. Rajagopalachar
Pleader for Appellant

Before the Government of *His Highness* the Maharaja of Mysore. . .

(4)

Appeal No. 45 of 1893-94

22

Appellant. Vs. Respondent.

Sammaiah, pensioned Naib Sheristadar of the late Resident Court by vice C. S. Gopal Rau

Gundappa

L. R. 108-93-4

Decision 3, 9, 1, -94

In 1869 Appellant was appointed Manager of Hoje agrahara, but as he was often in Government employment, his cousin the Respondent was appointed as his gumasta. Appellant wishes to remove Respondent from office and to appoint another as his gumasta. The Deputy Commissioner refused to comply with his request. The appeal is against this order.

2. The ground of appeal is that the Respondent says he is also a haksdar and therefore it is not safe to keep him as his gumasta.

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Respondent does not deny appellant's fact, but admitted at the hearing that he never paid anything to appellant in recognition of his superior right to the office and pleaded that he was not bound to pay anything to appellant because he himself was a builder. Government are of opinion that while on the one hand it is not desirable to turn out gumachis at the pleasure of the employers, it is not also proper to admit the claims of gumachis who refuse to pay anything to their employers on the plea that they are also the builders. The Potaji in this case is stated to be about 50 Rs. Government consider that ¼ of the Potaji may be paid to appellant, and if Respondent is not willing to pay it, appellant should be allowed to remove Respondent and appoint another.

By order,

Secretary

Petition
12-4-94
Petition
8-12-94
Petition
24-4-94
Copy to the Deputy Commissioner
Respondent to remain host

Pleader's Statement
18/27/7

Petition withdrawn
Attended
18/7

* Papers received with his No. 3364-37 dated 9th Feby 1894.
By order,

18/7

Chief Secretary

Record note
18/7
1897

No. 1079-

24

21-7-94

5

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT,

18/21 July 1894

Endorsement granted to Sriman Venkatarama Iyengar Thereafter of the late Assistant Commissioner by Mr. C. S. Srinivasa Iyengar Pleader

in reply to his Petition Registered No. 1072 dated 30th June 1894 requesting a grant for the family of late Captain Thereafter in Ord. No. 47 of 93-94 Regarding to remove the Captain Thereafter Pleadership from the office of Thirthahalli Amildarship.

Petitioner is informed that referred to the departmental Commissioner in whom orders have been issued

2. No case was altered

L. R

28-9-94-2

101-93-5

Rough

"By Order"

Chief Secretary.

M. G. C. P., Bangalore—6-3-94.—2000.